

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Re: Appeal to the Board of Patent Appeals and Interferences

Appellants:	Clark et al.	)	Examiner:	Jennifer Steele
)		
Serial No:	10/027,791	)	Group Art Unit:	1794
)		
Filed:	December 20, 2001	)	Deposit Account No:	04-1403
)		
Confirmation No:	9606	)	Customer No:	22827
)		
Title:	"Antimicrobial Pre-Moistened Wipers"	)	Attorney Docket No:	KCX-391 (16284)
)		

1. ☐ **NOTICE OF APPEAL:** Pursuant to 37 CFR 41.31, Applicant hereby appeals to the Board of Appeals from the decision dated _____ of the Examiner twice/finally rejecting claims _____.
2. ☐ **BRIEF** on appeal in this application pursuant to 37 CFR 41.37 is transmitted herewith (1 copy).
3. ☐ An **ORAL HEARING** is respectfully requested under 37 CFR 41.47 (due within two months after Examiner's Answer).
4. ☒ Reply Brief under 37 CFR 41.41(b) is transmitted herewith (1 copy).
5. ☐ "Small entity" verified statement filed: [] herewith [] previously.

6. **FEE CALCULATION:**

	Fees
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PETITION is hereby made to extend the original due date of February 20, 2008, hereby made for an extension to cover the date this response is filed for which the requisite fee is enclosed (1 month \$120; 2 months \$460; 3 months \$1,050; 4 months \$1,640, 5 months \$2,230

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SUBTOTAL: \$ _____ 0.00

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If "small entity" verified statement filed ☐ previously,
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- ☐ Fee enclosed.
- ☐ Charge fee to our Deposit Account/Order Nos. in the heading hereof (for which purpose one additional copy of this sheet is attached)
- ☐ Charge to credit card (attach Credit Card Payment Form – PTO 2038)
- ☐ Fee NOT required since paid in prior appeal in which the Board of Appeals did not render a decision on the merits.

The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any fees in addition to the fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under Rules 16-18 (deficiency only) now or hereafter relative to this application and the resulting official document under Rule 20, or credit any overpayment, to our Account No. shown in the heading hereof. This statement does not authorize charge of the issue fee in this case.

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Date: February 20, 2008

I hereby certify that this correspondence and all attachments and any fee(s) are being electronically transmitted via the internet to the U.S. Patent and Trademark Office using the Electronic Patent Filing System on February 20, 2008.

Heidi M. Lewis

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(Signature of person transmitting documents)

PATENT
ATTORNEY DOCKET NO.: KCX-391(16284)

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Appl. No:	10/027,791)	Art Unit/T.C:	1794
)		
Filed:	December 20, 2001)	Deposit Acct. No:	04-1403
)		
Title:	Antimicrobial Pre-Moistened	)	Confirmation No:	9606
	Wipers)		
		)	Customer ID No:	22827

Mailstop Appeal Brief - Patents
Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Post Office Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Honorable Commissioner:

Appellants submit the following reply brief in accordance with 37 C.F.R. § 41.41:

1. REAL PARTY IN INTEREST

The real party in interest in this matter is the assignee of record, Kimberly Clark Worldwide, Inc.

2. RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to the Appellants or the Appellants' legal representative which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

3. STATUS OF CLAIMS

The status of the claims can be found in Appellant's Brief on Appeal.

4. STATUS OF AMENDMENTS

To the Appellants' knowledge, all amendments have been entered into the record.

5. SUMMARY OF CLAIMED SUBJECT MATTER

A summary of the claimed subject matter can be found in Appellant's Brief on Appeal.

6. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

In the Office Action, claims 27-38, 50-51, 53-54, 56-58, 60-71, and 73-81 were rejected under 35 U.S.C. § 102(e), or in the alternative, § 103(a), in view of U.S. Pat. Patent No. 6,716,805 to Sherry, et al.¹

¹ In rebutting this rejection, Applicants do not admit nor acquiesce to Sherry, et al.'s status as prior art under any section of 35 U.S.C. § 102 to the present application.

7. ARGUMENT

Each of the following sections found in the Appellant Brief are repeated herein:

- I. Independent claims 27 and 35 are not anticipated by and are non-obvious in view of Sherry, et al.**
 - A. Sherry, et al. fails to teach all of the limitations of independent claims 27 and 35.**
 - B. Sherry, et al. teaches away from the wipes claimed in independent claims 27 and 35.**
- II. Response to Examiner's Answer**
 - A. Grounds of Rejection**

The Examiner's Answer states that the independent claims were not rejected under 35 U.S.C. § 102(e), and that the recitation of this rejection in the Final Office Action was a typographical error. Appellants thank Examiner Steele for clarifying this rejection in the Examiner's Answer.

B. Obviousness

The arguments directed to Sherry, et al.'s failure to teach all of the limitations of independent claims 27 and 35 are still applicable to a rejection under 35 U.S.C. § 103(a). Applicants note that in order to establish *prima facie* obviousness, all of the claimed limitations must be taught or suggested in the prior art. See, e.g., MPEP § 2143.03.

Additionally, the Examiner's Answer dismisses Sherry, et al.'s teachings of their entire purpose of leaving a residual amount of cleaning solution on the surface. Sherry, et al. teaches that this residue is even more prevalent with wipes made of dimethyl benyl ammonium chlorides. Sherry, et al. teaches that such "compounds have been found to often interfere with the benefits of the preferred polymers." Additionally, these

compounds "can leave a filmy surface" and "need to be used at high levels." (Col. 36, lines 57-67.)

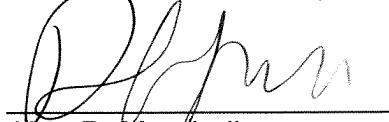
Upon consideration of these express teachings, one of ordinary skill in the art having common sense at the time of the invention would not have looked to utilize a sanitizing formulation having between about 0.01% by weight to about 0.4% by weight of at least one benzalkonium halide when desiring to reduce the amount of residual ingredients on the wiped surface. The Office Action completely ignores these teachings of Sherry, et al. that contradict the presently claimed wiper. As such, Applicants respectfully assert that the claims are not obvious in view of Sherry, et al., either alone or in any combination.

As such, for at least the reasons set forth above, Applicants respectfully submit that the present claims patentably define over all of the prior art of record. Thus, it is believed that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested.

Please charge any additional fees required by this Reply Brief to Deposit Account No. 04-1403.

Respectfully submitted,

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Date: Feb. 20, 2008

8. CLAIMS APPENDIX

A listing of the claims can be found in Appellant's Brief on Appeal.

9. EVIDENCE APPENDIX

None.

10. RELATED PROCEEDINGS APPENDIX

None.